

FEB - 2 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
MIDDLE DIVISION AT NASHVILLE

DEPUTY CLERK

**LUIS E. SWEENEY**  
Plaintiff,

vs.

Civil Action No:

**TENNESSEE DEPARTMENT OF SAFETY**  
Defendant.

**COMPLAINT  
JURY TRIAL DEMAND**

COMES NOW, Plaintiff Luis E. Sweeney, ("Plaintiff") *pro se*, and file this Complaint of discrimination against Tennessee Department of Safety ("Defendant") for unlawful employment practices on the basis of racial discrimination and retaliation in violation of 42 U.S.C. §2000e, Title VII of the Civil Rights Act of 1964, as amended ("Title VII"); racial discrimination that impaired Plaintiff's right to make and enforce his employment contact with the Defendant in violation of provisions of 42 U.S.C. §1981, ("§1981"); and, deprivation of any rights, privileges, or immunities secured by the Constitution and laws in violation of provisions of 42 U.S.C. §1983, ("§1983"). Plaintiff further charges Defendant with unlawful employment practices in violation of the Tennessee Human Rights Act ("THRA"), Tenn. Code Ann. §§4-21-401 et seq.

**JURISDICTION**

1. Plaintiff's claims arise under of Title VII, §1981, §1983. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g), 42 U.S.C. §1981, and 42 U.S.C. §1983.

Jurisdiction is specifically conferred on this Court by *42 U.S.C. § 2000e-3* and *28 U.S.C. §1331*.

2. Furthermore, the Court's jurisdiction over Plaintiff state law claim is by way of the Court's supplemental jurisdiction as codified in *28 U.S.C. §1367*.

### **PARTIES**

3. Plaintiff, Luis E. Sweeney, is an African-American citizen of the United States and resides at 837 Rands Ways in Columbia (Maury County) Tennessee, 38401.
4. Defendant, Tennessee Department of Safety, a political subdivision, agency or instrumentality of the State of Tennessee, is located at 1150 Foster Avenue Nashville, Tennessee 37249-1000.

### **FACTS**

5. Plaintiff is a Tennessee State Trooper who was hired on August 15, 1989. Plaintiff was assigned duty in Maury County, Tennessee in July 1991 and served there until January 5, 2009, when he was reassigned to Marshall County, Tennessee.
6. On or about June 22, 2007, Plaintiff informed his commanding officer, Captain Steven Hazard, of Plaintiff's intentions to run for Sheriff, a non-partisan office, in the 2010 Maury County Sheriff election.

7. On August 8, 2007, Colonel Mike Walker, informed Plaintiff that his intended candidacy was permissible, subject to the provisions of the *Federal Hatch Act* and prohibition of the *Little Hatch Act*.
8. Subsequently, Captain Steven Hazard told Plaintiff that Plaintiff would be immediately reassigned if Plaintiff ran in the Maury County Sheriff election.
9. The Tennessee Department of Safety has no published Department General Orders, guidelines, procedures or regulations requiring a state trooper to be reassigned during his campaign for non-partisan public office.
10. Moreover, other similarly situated non-African American employees of the Tennessee Department of Safety have not been reassigned duties upon announcement of their candidacy for non-partisan office. Names of said individuals include, but not exhaustively: Leslie Helton, William Dorning, Oddie Shoupe, Alan Chapman and Jerry Blakemore.
11. On or about May 16, 2008, Plaintiff filed a timely charge against the Tennessee Department of Safety with the United States Equal Employment Opportunity Commission ("EEOC"), alleging discrimination based on race in violation of Title VII. (EEOC Charge No. 494-2008-01927 is attached).
12. On December 22, 2008, Captain Steven Hazard officially notified Plaintiff that upon his announcement for candidacy he would be temporally assigned to Marshall County of the Lawrenceburg District.

13. Plaintiff announced his candidacy for Maury County Sheriff on January 5, 2009, and was order to report to Marshall County on afternoon shift on the same day.

14. Believing that the Tennessee Department of Safety continued to engage discriminatory employment practices, and retaliation because Plaintiff had exercised rights guaranteed to him under state and federal law, Plaintiff filed a charge of retaliation with the EEO on December 31, 2008. (EEOC Charge No. 494-2009-00605 is attached) EEOC issued a right to sue on Plaintiff's retaliation charge on January 8, 2009.

15. **WHEREFORE**, Plaintiff prays that this Court set this matter for trial by jury, enter judgment in my favor. Plaintiff further request that this Court enjoin Defendant's requirement to be reassigned and restoring me to my previously assigned duties in Maury County, with all rights, benefits and pay which I enjoyed prior to my transfer to Marshall County. Plaintiff further pray that this Court grant the maximum relief allowed by state and federal law, including but not limited to compensatory damages, attorney's fees, costs, pre- and post-judgment interest, and such other relief as is just and equitable under the circumstances.

Respectfully submitted,



Luis E. Sweeney  
837 Rands Ways  
Columbia, TN 38401  
Phone: (931) 380-2133

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA  
☒ EEOC

**494-2008-01927****Tennessee Human Rights Commission**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mr. Luis E. Sweeney**

Home Phone (Incl. Area Code)

**(931) 380-2133**

Date of Birth

**09-21-1953**

Street Address

City, State and ZIP Code

**837 Rands Way, Columbia, TN 38401**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**DEPARTMENT OF SAFETY**

No. Employees Members

**500 or More**

Phone No. (Include Area Code)

**(615) 251-5114**

Street Address

City, State and ZIP Code

**1150 Foster Avenue, Nashville, TN 37249**

Name

No. Employees Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es))

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below)

**07-27-2007****04-03-2008**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by the Department of Safety on August 15, 1989. I am currently a State Trooper. I informed my employer of my intent to run for sheriff. I was informed that I would have to move out of the county in order to run. White employees have run for sheriff, been elected and not subjected to that terms and conditions of employment. The employer employs more than 15 employees.

I believe I have been discriminated against because of my race/Black in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

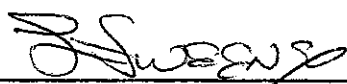
NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief  
 SIGNATURE OF COMPLAINANT

**May 16, 2008**

Date



Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
 (month day year)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

494-2009-00605

**Tennessee Human Rights Commission**

and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.)

**Mr. Luis E. Sweeney**

Home Phone (Incl. Area Code)

**(931) 380-2133**

Date of Birth

**09-21-1953**

Street Address

City, State and ZIP Code

**837 Rands Ways, Columbia, TN 38401**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**TENNESSEE HIGHWAY PATROL**

No. Employees Members

**500 or More**

Phone No. (Include Area Code)

**(931) 766-1425**

Street Address

City, State and ZIP Code

**1209 North Locust Avenue, Lawrenceburg, TN 38464**

Name

**Department of Safety**

No. Employees Members

**500 or More**

Phone No. (Include Area Code)

**(931) 766-1425**

Street Address

City, State and ZIP Code

**1209 North Locust Avenue, Lawrenceburg, TN 38464**

DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**12-22-2008****12-22-2008**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed attach extra sheet(s)):

Since the filing of my previous charge of discrimination against the Tennessee Highway Patrol (Department of Safety), I have continued to be subjected to discrimination based on my race, and in retaliation

I was informed, in writing, on December 22, 2008, that if I wanted to run for Sheriff I would have to relocate to another county. This has not been the past practice and it is not in the Department's General Orders or policy. None of the White employees have been made to relocate when running for office. My employer admitted during the investigation of my previous charge, that there is no policy after all, and that it was just a practice that they practice, but I am the only one that has been affected by this practice. I believe my employer has been untruthful.

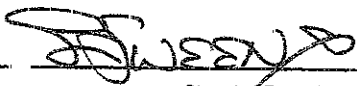
I believe that I continue to be discriminated against because of my race, African American, and in retaliation, in violation of Title VII of the Civil Rights Act of 1964, as amended

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

**Dec 31, 2008**

Date



Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month day year)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Luis E. Sweeney  
837 Rands Ways  
Columbia, TN 38401

From: Nashville Area Office  
50 Vantage Way  
Suite 202  
Nashville, TN 37228



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

494-2009-00605

Deborah K. Walker,  
Supervisory Investigator

(615) 736-2109

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

JAN 8 2009

Enclosures(s)

Sarah L. Smith,  
Area Office Director

(Date Mailed)

cc: TENNESSEE HIGHWAY PATROL  
Department Of Safety  
1209 North Locust Avenue  
Lawrenceburg, TN 38464